

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
45 Fremont Street, 21st Floor  
San Francisco, California 94105

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**File No. RH 2022520**

Notice Date: August 1, 2002

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2003.

**SUBJECT OF HEARING**

Notice is hereby given that the insurance commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization; (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan-1995; (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of Data; and (4) amendments to the California Workers' Compensation Experience Rating Plan-1995. The hearing will be held in response to a filing, submitted on July 31, 2002, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

**AUTHORITY AND REFERENCE**

**Uniform Plans and Regulations**

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the insurance commissioner pursuant to the authority granted by Insurance Code Section 11734.

### Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the insurance commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the insurance commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the insurance commissioner. Accordingly, the pure premium rates issued or approved by the insurance commissioner are advisory only.

### Advisory Rating Plans

Pursuant to Insurance Code Sections 11750.3(a) and 11750.3(c), a licensed rating organization may promulgate advisory plans in connection with pure premium rates and the administration of classification and rating systems and present them to the insurance commissioner for review.

## **HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**September 20, 2002 – 9:30AM  
Training Room 1 & 2  
455 Golden Gate Avenue  
San Francisco, California 94102**

## **INFORMATIVE DIGEST**

Pursuant to Insurance Code Sections 11734 and 11751.5, the insurance commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the insurance commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan–1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan–1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan–1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan–1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the insurance commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the insurance commissioner 30 days prior to its use and is not disapproved by the insurance commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the uniform statistical reporting plan or the classification system developed by the WCIRB and approved by the insurance commissioner.

The pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan–1995, which contains the standard classification system developed by the WCIRB, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan–1995, are detailed in the WCIRB's filing letter and summarized below.

## **APPROVE PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the insurance commissioner applicable to (a) new and renewal policies with anniversary rating dates on or after January 1, 2003, (b) the unexpired portion of outstanding policies with anniversary rating dates on or after January 1, 2002 and before July 1, 2002, as of January 1, 2003, and (c) the unexpired portion of outstanding policies with anniversary rating dates on or after July 1, 2002 and before January 1, 2003, as of January 1, 2003. The proposed advisory pure premium rates for new and renewal policies with anniversary rating dates on or after January 1, 2002 are, on average, 11.9% greater than the July 1, 2002 advisory pure premium rates approved by the insurance commissioner. The advisory pure premium rates applicable to the unexpired portion of outstanding policies with anniversary rating dates on or after January 1, 2002 and before July 1, 2002, as of January 1, 2003, are 5.9% greater than the January 1, 2002 advisory pure premium rates approved by the insurance commissioner. The advisory pure premium rates applicable to the unexpired portion of outstanding policies with anniversary rating dates on or after July 1, 2002 and before January 1, 2003, as of January 1, 2003, are 5.9% greater than the July 1, 2002 advisory pure premium rates approved by the insurance commissioner.

The proposed pure premium rates applicable to 2003 policies are based on (a) insurer losses incurred during 2001 and prior accident years valued as of March 31, 2002, (b) insurer loss adjustment expenses for 2001 and prior years, (c) the cost impact of AB 749, (d) the experience rating off-balance correction factor, and (e) classification payroll and loss experience reported for policies issued during 1999 and prior years. The proposed pure premium rates applicable to the unexpired portion of 2002 policies as of January 1, 2003 are based on the cost impact of AB 749.

## **AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN–1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Uniform Statistical Reporting Plan–1995, which includes the standard classification system and unit statistical reporting requirements, as well as policy document filing requirements and general administrative procedures. Except as noted below, these changes are proposed to become effective January 1, 2003 with respect to new and renewal policies with anniversary rating dates on or after January 1, 2003. The changes to Part 4, "Unit Statistical Report Filings," are proposed to be applicable to all unit statistical reports with a date of valuation, and all correction reports filed, on or after July 1, 2003.

- Amend for clarity, consistency and ease of use.
- Amend the minimum and maximum annual payroll for executive officers, partners, and sole proprietors to increase the maximum from \$76,700 to \$79,300, and the minimum from the \$27,300 to \$28,600, as well as to other payroll limitations relevant to specific classifications (e.g. athletic teams, entertainment classifications, taxicabs, etc.), to reflect wage inflation since the last time the amount was adjusted.
- Amend the painting and electrical wiring dual wage construction classifications by \$1 to reflect wage inflation since the last time the thresholds were amended.
- Amend to add a new classification for sandwich shops, beverage preparation shops and ice cream or frozen yogurt shops.
- Amend the overtime remuneration provisions with respect to employees that are paid on a commission or piecework basis and to reference the special industry classification for farms.
- Amend to clarify the intent of the classifications for private colleges or schools.
- Amend to require unit statistical reports with valuation dates on or after July 1, 2003 to be submitted to the WCIRB using the Expanded ASWG format.

#### **AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data to become effective January 1, 2003 with respect to new and renewal policies with anniversary rating dates on or after January 1, 2003:

- Amend for clarity, consistency and ease of use, and to conform to proposed changes to the Uniform Statistical Reporting Plan.

#### **AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN-1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan-1995 to become effective January 1, 2003 with respect to new and renewal policies with anniversary rating dates on or after January 1, 2003:

- Amend the expected loss rates, D-ratios and the average death value effective January 1, 2003 to reflect more current experience.

- Amend the Experience Rating Eligibility from \$26,200 to \$33,600 to reflect wage inflation, the July 1, 2002 pure premium rate change and the proposed January 1, 2003 pure premium rate change.
- Amend for consistency with changes being proposed to the Uniform Statistical Reporting Plan.

## **UNITED STATES LONGSHORE AND HARBOR WORKERS' SUPPLEMENT**

The WCIRB has adopted the following revisions to the United States Longshore and Harbor Workers' Supplement of the California Workers' Compensation Uniform Statistical Reporting Plan–1995. The changes will become effective January 1, 2003, except that the instructions applicable to the reporting of USL&H experience will be applicable to all policies with effective dates on or after January 1, 2002:

- Amend for clarity, consistency and ease of use, and to conform to changes made to the Uniform Statistical Reporting Plan.

## **COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The insurance commissioner has determined that there will not be a cost increase and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

## **IMPACT ON HOUSING COSTS**

The insurance commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

## **IMPACT ON SMALL BUSINESSES**

The insurance commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

## **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The insurance commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the insurance commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

## **FEDERAL FUNDING TO THE STATE**

The matters proposed herein will not affect any federal funding.

## **NON-DISCRETIONARY COSTS OR SAVINGS**

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

## **COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

## **REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

## **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the insurance commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attention: Larry C. White, Senior Staff Counsel  
45 Fremont Street, 24th Floor  
San Francisco, California 94105  
(415) 538-4423

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the insurance commissioner's deliberations.

### **DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the insurance commissioner at the address listed above no later than 5:00 PM on September 24, 2002.

### **TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The insurance commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org](http://www.wcirbonline.org) in the "WCIRB Wire" section, August 1, 2002 dateline.

### **ACCESS TO RULE MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

### **AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the insurance commissioner's Bulletins and Rulings, and California Government Code mailing lists.

## **ADOPTION OF REGULATIONS**

Following the hearing, the insurance commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the insurance commissioner's action will be sent to all persons on the insurance commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the commissioner's action.

Dated: August 1, 2002

**HARRY LOW**  
Insurance Commissioner

By \_\_\_\_\_  
Larry C. White  
Senior Staff Counsel